

Message

From: Ex. 6 Personal Privacy (PP) [redacted]@icloud.com
Sent: 5/14/2022 11:32:28 AM
To: Ex. 6 Personal Privacy (PP) [redacted]@gmail.com
CC: Jacobson, Marty (ECY) [MAJA461@ecy.wa.gov]; Flege, Kyrre (AGR) [kflege@agr.wa.gov]; Rau, Ben (ECY) [benr461@ECY.WA.GOV]; Sandison, Derek (AGR) [DSandison@agr.wa.gov]; Watson, Laura (ECY) [lawa461@ecy.wa.gov]; McLain, Kelly (AGR) [KAardal@agr.wa.gov]; Daniel (AGR) [DSulak@agr.wa.gov]; Pirzadeh, Michelle [Pirzadeh.Michelle@epa.gov]; Julia.Reitan@washington.sierraclub.org; Regan, Michael [Regan.Michael@epa.gov]; Eoc, Epahq [Eoc.Epahq@epa.gov]; washington@tnc.org; Anson.Tebbetts@vermont.gov; Terry.Smith@vermont.gov; psa@pugetsoundkeeper.org; Peak, Nicholas [Peak.Nicholas@epa.gov]; Andrew Hawley [hawley@westernlaw.org]; Craig Bowhay [cbowhay@nwifc.org]; steveo@co.skagit.wa.us; rickh@co.skagit.wa.us; mpia461@ecy.wa.gov; Jamila (GOV) [Jamila.Thomas@gov.wa.gov]; Blackmore, Laura (PSP) [laura.blackmore@psp.wa.gov]; Alex (PSP) [alex.mitchell@psp.wa.gov]; Ahren (PSP) [ahren.stroming@psp.wa.gov]; RCO MI General Info (RCO) [info@rco.wa.gov]; Kyle K (DFW) [Vincent.Adicks@dfw.wa.gov]; Erik (GSRO) [erik.neatherlin@gsro.wa.gov]; info@charlietehbutt.com; info@blueriverlaw.com; jlaughlin@cascwild.org; nick@cascwild.org; nrinfo@nrinfo.org; [redacted]@gmail.com; blanouette@upperskagit.com; michaelk@skagitlandtrust.org; vonessen.ashley@nisqually-nsn.gov; Epstein, Larry (PSP) [larry.epstein@psp.wa.gov]; diane.hennessey@epa.gov; marine@washington.sierraclub.org; [redacted]@olympus.net; [redacted]@msn.com; Ralph (ECY) [RSVR461@ecy.wa.gov]; hpickernell@chehalistriebe.org; andy.joseph@colvilletribes.com; dbarnett@cowlitz.org; lisa.martinez@hohtribe-nsn.org; rallen@jamestowntribe.org; jeromys@pgst.nsn.us; tomwooten@samishtribe.nsn.us; gmiller@skokomish.org; trgobin@tulaliptribes-nsn.gov; delano_saluskin@yakama.com; bill.sterud@puyalluptribe-nsn.gov; nmaltos@sauk-suiattle.com; ewhite@stillaguamish.com; darylwilliams@tulaliptribes-nsn.gov; Inelson@tulaliptribes-nsn.gov; [redacted]@olympus.net; swroerts@ecy.wa.gov; ECY RE NWRO ERTS [nwroerts@ecy.wa.gov]; eroertscoordinator@ecy.wa.gov; croerts@ecy.wa.gov
Subject: Re: Weekly Goals Sandison / Watson, Flege, Rau

Hello, Ex. 6 Personal Privacy (PP) [redacted]

I appreciate the opportunity to add to this conversation.

In Yakima County the ERTS program only serves to shield agricultural polluters from accountability for their actions. Here is what happens:

- Ecology relies on complaints from the public to identify discharges to waters of the state – ground and surface water.
- When discharges come from dairies the Memorandum of Understanding (MOU) between Ecology and WSDA requires an investigation by an employee from the WSDA Dairy Nutrient Management Program.
- The DNMP inspector almost always determines that the dairy has complied with its Nutrient Management Plan, and therefore did not discharge – a questionable assumption. The inspector simply talks to the dairyman, reviews paperwork, and does a walkaround investigation at best.
- The case is closed and there is no basis for Ecology to require a National Pollutant Discharge Elimination System (NPDES) permit.

Most recently I submitted a complaint to both the DNMP inspector and the ERTS. The inspector is required by law to send the complainant a copy of the ERTS report. When I did not receive one, I asked Ecology for advice. Ecology told me to submit a public records request which I did. I also complained to WSDA about failure of the inspector to comply with the law. The WSDA administrator who oversees the DNMP took my information, acted as investigator, defense, judge and jury. She did not provide me with an opportunity to rebut her findings and simply closed the case.

I am happy to provide supporting data regarding this and other failures on the part of WSDA to protect waters of the state as required by RCW 90.64.

Thanks

Ex. 6 Personal Privacy (PP) [redacted]

On May 13, 2022, at 4:15 PM, **Ex. 6 Personal Privacy (PP)** @gmail.com> wrote:

Marty,

Thank you for such detailed and clear explanations and taking the time out of your day to do that. I hope you advance far in your career, we need people like you.

I will remind Mr. Rau, Ms. Watson, and Mr. Sandison about their replies early next week, maybe they can work on them this weekend. I don't understand their delay.

Again, thank you and have a nice weekend,

Ex. 6 Personal Privacy (PP)

On Fri, May 13, 2022 at 3:40 PM Jacobson, Marty (ECY) <MAJA461@ecy.wa.gov> wrote:

Hello, **Ex. 6 Personal Privacy (PP)**

Please see the responses (in red) to your questions below. These responses were gathered from a few of my Ecology coworkers and WSDA. Also, please see the attached WSDA document regarding manure storage and transfer.

Have a nice weekend,

Marty

1) What is the precedence source for the transfer of liability for the manure being discussed for the farm transported the manure to the field last fall and spread it this spring? Perhaps it is different, but it would seem the person that did something is responsible, not the person that accepts responsibility...but this may be different. Just curious about the basis of your understanding. Perhaps you could direct me to some RCW or environmental law?

Ecology's authority to address situations like those discovered on **Ex. 6 Personal Privacy (PP)** property comes from the state's Water Pollution Control Act (90.48 RCW). That authority does not prohibit the exchange of manure or other soil amendments but does prohibit those activities from causing pollution. In these types of situations where manure is being exchanged, determining responsibility often depends on who is in control of the material. Control can depend on many factors such as timing, environmental circumstances or who has primary influence over the decision making. This is determined on a case by case basis and includes consultation with WSDA when the supplier is a licensed dairy.

2) The ERTs database,

2a) Is there a way for me to track what is happening and when for ERTs submissions?

The complainant can contact the ERTS Coordinator who can provide an update (if any). Such as this:
<https://apps.ecology.wa.gov/cleanupsearch/document/51733>

It would seem that all ERTs reports should be able to be looked at on line provided information about the submitter is redacted if the confidential box is selected).

The ERTS database is not available online to search at this time. It may be in the future but there is currently no plan to provide an online search. There are privacy concerns as anyone can report anyone for anything. That information may or may not be accurate. We need to be thoughtful about what information would be available online. There are many historical reports that did not have a confidential box and/or information was put into comments that indicated confidential information. It would take years to go through the data to redact any historical information that had been entered. Many reporting parties mark confidential and then list names, medical information, etc. in the comments.

2b) Is there a tabular query? For example, I would like to look at all ERTs data for the last year by ECY region for when submitted, assigned, investigated, etc...through being resolved. Each would be listed on a new line with headings for the fields.

A public records request can be made for this information. There is no requirement for anyone to complete investigations in the database internally or externally. Asking for data for incidents that are resolved may or may not be accurate. As an example, the Spill Prevention, Preparedness and Response Program imports the initial ERTS data into their own database SPIIS and completes any information on follow-up, resolution, etc. in their own database. The Water Quality Program uses PARIS for permit compliance. The Toxics Cleanup Program has their own database as well. The ERTS database is an initial report database, not a cradle to grave database.

2c) I could not find a "ERTs" procedure, is there one available you could send me a link to?

The ERTS database is an initial entry database and referrals made internally and externally as needed. There is not a specific ERTS procedure.

2d) If the answer to these questions is basically the ability does not exist to do obtains reports, how might you suggest we go about increasing the usefulness and transparency of the ERTs database for people such as myself and interested environmental organizations to monitor the status of their submissions and obtain the ERTs data for analysis purposes such as complaints by region, time open,

time till assigned, time until resolved, and other similar metrics? I was unable to find anything, not to say it is not there, can you help me?

The agency would have to have funding and IT capacity to redevelop the ERTS database. A redevelopment of the database was done from 2016-2019 from an Access Database to its current form as an Intranet Web application with a SQL back-end.

3) I see Vermont uses a "Agricultural Waste Export Agreement Form" with information about the export and submitted with the annual farm report, see below or attached.

3a) Do we have a similar method for tracking exports?

From Kyrre Flege of WSDA: RCW 90.64.017 provides that every dairy producer register and provide information on nutrients exported, and WAC 16-611 clarifies what information must be provided. DNMP collects this information at routine inspections roughly every two years. DNMP recommends the documentation of each manure transfer through an agreement and provides a template agreement example to dairy producers who routinely export manure (Pub 924 attached). The transfer agreement is not required, but is highly recommended.

From **Ex. 6 Personal Privacy (PP)** @gmail.com>

Sent: Saturday, May 7, 2022 4:05 PM

To: Jacobson, Marty (ECY) <MAJA461@ECY.WA.GOV>

Cc: Flege, Kyrre (AGR) <KFlege@agr.wa.gov>; Rau, Ben (ECY) <benr461@ECY.WA.GOV>; Sandison, Derek (AGR) <DSandison@agr.wa.gov>; Watson, Laura (ECY) <lawa461@ECY.WA.GOV>; McLain, Kelly (AGR) <KAardal@agr.wa.gov>; **Ex. 6 Personal Privacy (PP)** @icloud.com>; Sulak, Daniel (AGR)

<DSulak@agr.wa.gov>; Pirzadeh, Michelle <Pirzadeh.Michelle@epa.gov>;

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washington@tnc.org; Anson.Tebbetts@vermont.gov; Terry.Smith@vermont.gov;

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<hawley@westernlaw.org>; Craig Bowhay <cbowhay@nwifc.org>; steveo@co.skagit.wa.us;

rickh@co.skagit.wa.us; Piazza, Millie (ECY) <mpia461@ECY.WA.GOV>; Thomas, Jamila (GOV)

<Jamila.Thomas@gov.wa.gov>; Blackmore, Laura (PSP) <laura.blackmore@psp.wa.gov>; Mitchell, Alex

(PSP) <alex.mitchell@psp.wa.gov>; Stroming, Ahren (PSP) <ahren.stroming@psp.wa.gov>; RCO MI

General Info (RCO) <info@rco.wa.gov>; Adicks, Kyle K (DFW) <Vincent.Adicks@dfw.wa.gov>;

Neatherlin, Erik (GSRO) <erik.neatherlin@gsro.wa.gov>; info@charlietebbutt.com;

info@blueriverlaw.com; jlaughlin@cascwild.org; nick@cascwild.org; nrdinfo@nrdc.org;

Ex. 6 Personal Privacy (PP) @gmail.com; blanouette@upperskagit.com; michaelk@skagitlandtrust.org;

vonessen.ashley@nisqually-nsn.gov; Epstein, Larry (PSP) <larry.epstein@psp.wa.gov>;

diane.hennessey@epa.gov; marine@washington.sierraclub.org; sewagesludge@olympus.net;

Ex. 6 Personal Privacy (PP) @msn.com; Svrjcek, Ralph (ECY) <RSVR461@ECY.WA.GOV>; Pickernell, H

<hpickernell@chehalistribe.org>; andy.joseph@colvilletribes.com; dbarnett@cowlitz.org;

lisa.martinez@hohtribe-nsn.org; Allen, Ron <rallen@jamestowntribe.org>; jeromys@pgst.nsn.us;

Wooten, Tom <tomwooten@samishtribe.nsn.us>; gmiller@skokomish.org; trgobin@tulaliptribes-

nsn.gov; delano_saluskin@yakama.com; bill.sterud@puyalluptribe-nsn.gov; nmaltos@sauk-

suiattle.com; ewhite@stillaguamish.com; darylwilliams@tulaliptribes-nsn.gov; lnelson@tulaliptribes-

nsn.gov; **Ex. 6 Personal Privacy (PP)** OLYMPUS.NET; ECY RE SWRO ERTS COORDINATOR <swroerts@ECY.WA.GOV>; ECY

RE NWRO ERTS <nwroerts@ECY.WA.GOV>; ECY DL ERO ERTS Coordinators
<EROERTSCOORDINATOR@ECY.WA.GOV>; ECY RE CRO ERTS COORDINATOR <CROERTS@ECY.WA.GOV>
Subject: Re: Weekly Goals Sandison / Watson, Flege, Rau

THIS EMAIL ORIGINATED FROM OUTSIDE THE WASHINGTON STATE EMAIL SYSTEM -
Take caution not to open attachments or links unless you know the sender AND were
expecting the attachment or the link

Thank you Marty for responding so quickly with the explanation. Hope you had a nice
weekend.

You have always explained things well and been diligent in your work, we are fortunate to have
state employees such as yourself and Mr. Flege, your work and responses are valued by
concerned environmentally interested citizens of Washington state. The new training you are
having is certainly a good idea, not so sure it will help any more than a similar voluntary
speeding program would eliminate speeding on the roads though. Please also include a
remedial lagoon management section for Ex. 6 Personal Privacy (PP) for his self created emergency.

If you don't mind I have a few questions for you...

1) What is the precedence source for the transfer of liability for the manure being discussed for
the farm transported the manure to the field last fall and spread it this spring? Perhaps it is
different, but it would seem the person that did something is responsible, not the person that
accepts responsibility...but this may be different. Just curious about the basis of your
understanding. Perhaps you could direct me to some RCW or environmental law?

2) The ERTs database,

2a) Is there a way for me to track what is happening and when for ERTs submissions?

Such as this: <https://apps.ecology.wa.gov/cleanupsearch/document/51733>

(It would seem that all ERTs reports should be able to be looked at on line provided
information about the submitter is redacted if the confidential box is selected)

2b) Is there a tabular query? For example, I would like to look at all ERTs data for the last year by ECY region for when submitted, assigned, investigated, etc...through being resolved. Each would be listed on a new line with headings for the fields.

2c) I could not find a "ERTs" procedure, is there one available you could send me a link to?

2d) If the answer to these questions is basically the ability does not exist to do obtains reports, how might you suggest we go about increasing the usefulness and transparency of the ERTs database for people such as myself and interested environmental organizations to monitor the status of their submissions and obtain the ERTs data for analysis purposes such as complaints by region, time open, time till assigned, time until resolved, and other similar metrics? I was unable to find anything, not to say it is not there, can you help me?

Something like this: <https://ecology.wa.gov/Research-Data/Data-resources/Environmental-Information-Management-database>

3) I see Vermont uses a "Agricultural Waste Export Agreement Form" with information about the export and submitted with the annual farm report, see below or attached.

3a) Do we have a similar method for tracking exports?

3b) Or, are exports tracked in Washington state in some other way, and if so, how?

Thank you for your explanations and help, and please provide the name and email of those who could answer these questions if you do not know.

Could you also please respond to all? Interestingly enough I have had some interest in following some of the questions and answers for emails I have sent.

Looking forward to your response, as well from Ms. Watson, Mr. Sandison, and Mr. Rau. I suppose I can remind them again in a few days. At least I know I can count on you and Mr. Flege, thank you both.

I am, in Stanwood,

Ex. 6 Personal Privacy (PP)

<image001.png>

...

On Thu, May 5, 2022 at 3:14 PM Jacobson, Marty (ECY) <MAJA461@ecy.wa.gov> wrote:

Hello Ex. 6 Personal Privacy (PP)

The questions you ask can be important if the exporting and receiving parties deny their responsibility to manage risk and protect water quality. In my investigation, I determined that the receiving party, Ex. 6 Personal Privacy (PP) willingly accepted the material and the responsibility for it. Therefore, these questions were not found to be relevant to this case and I did not seek, and am not currently seeking, answers to them. At this point, material is no longer being stored at the property and both the exporter and

recipient are engaged, cooperative, and committed to implementing practices to protect water quality moving forward.

That said, it is true that factors such as who spread the material, who owns the land and equipment, etc. can be important when determining responsibility and which agency should take the lead in investigating a particular matter. While that was not necessary in this situation, we will continue to coordinate with the Washington State Department of Agriculture when off-site manure issues are found or reported.

I hope you will be glad to hear that Ecology, WSDA, and Snohomish Conservation District are planning a workshop for Stillaguamish livestock producers. Our goal is to educate or re-educate folks about proper manure management in flood prone areas and applicable water quality laws.

Marty Jacobson

Nonpoint Water Quality Specialist

WA Department of Ecology

Northwest Regional Office

Pronouns he/him

Cell (425) 301-7062

From: **Ex. 6 Personal Privacy (PP)** [redacted]@gmail.com>

Sent: Tuesday, May 3, 2022 3:15 PM

To: Jacobson, Marty (ECY) <MAJA461@ECY.WA.GOV>

Cc: Flege, Kyrre (AGR) <KFlege@agr.wa.gov>; Rau, Ben (ECY) <benr461@ECY.WA.GOV>; Sandison, Derek (AGR) <DSandison@agr.wa.gov>; Watson, Laura (ECY) <lawa461@ECY.WA.GOV>; McLain, Kelly (AGR) <KAardal@agr.wa.gov>; **Ex. 6 Personal Privacy (PP)** [redacted]@icloud.com>; Sulak, Daniel (AGR) <DSulak@agr.wa.gov>; Pirzadeh, Michelle <Pirzadeh.Michelle@epa.gov>; Julia.Reitan@washington.sierraclub.org; Regan.Michael@epa.gov; EOC.EPAHQ@epa.gov; washington@tnc.org; Anson.Tebbetts@vermont.gov; Terry.Smith@vermont.gov; psa@pugetsoundkeeper.org; Peak, Nicholas <peak.nicholas@epa.gov>; Andrew Hawley <hawley@westernlaw.org>; Craig Bowhay <cbowhay@nwifc.org>; steveo@co.skagit.wa.us; rickh@co.skagit.wa.us; Piazza, Millie (ECY) <mpia461@ECY.WA.GOV>; Thomas, Jamila (GOV) <Jamila.Thomas@gov.wa.gov>; Blackmore, Laura (PSP) <laura.blackmore@psp.wa.gov>; Mitchell, Alex (PSP) <alex.mitchell@psp.wa.gov>; Stroming, Ahren (PSP) <ahren.stroming@psp.wa.gov>; RCO MI General Info (RCO) <info@rco.wa.gov>; Adicks, Kyle K (DFW) <Vincent.Adicks@dfw.wa.gov>; Neatherlin, Erik (GSRO) <erik.neatherlin@gsro.wa.gov>; info@charlietebbutt.com; info@blueriverlaw.com; jlaughlin@cascwild.org; nick@cascwild.org; nrdcinfo@nrdc.org; **Ex. 6 Personal Privacy (PP)** [redacted]@gmail.com; blanouette@upperskagit.com; michaelk@skagitlandtrust.org; vonessen.ashley@nisqually-nsn.gov; Epstein, Larry (PSP) <larry.epstein@psp.wa.gov>; diane.hennessey@epa.gov; marine@washington.sierraclub.org; **Ex. 6 Personal Privacy (PP)** [redacted]@olympus.net;

Ex. 6 Personal Privacy (PP)

@msn.com; Svrjcek, Ralph (ECY) <RSVR461@ECY.WA.GOV>; Pickernell, H <hpickernell@chehalistribe.org>; andy.joseph@colvilletribes.com; dbarnett@cowlitz.org; lisa.martinez@hohtribe-nsn.org; Allen, Ron <rallen@jamestowntribe.org>; jeromys@pgst.nsn.us; Wooten, Tom <tomwooten@samishtribe.nsn.us>; gmiller@skokomish.org; trgobin@tulaliptribes-nsn.gov; delano_saluskin@yakama.com; bill.sterud@puylluptribe-nsn.gov; nmaltos@sauk-suiattle.com; ewhite@stillaguamish.com

Subject: Re: Weekly Goals Sandison / Watson, Flege, Rau

Thank you for getting back so quickly Mr. Jacobson.

The thing I am curious about is who transported the the solids there, owned the equipment?

And, who spread the solids, same thing owned the equipment?

Ex. 6 Personal Privacy (PP)

may have the equipment, that is swell, but what I am asking is whose equipment was it transported and spread with as the dairy is also able to transport the solids?

Please find that out if you did not specifically ask.

Thank you

Ex. 6 Personal Privacy (PP)

On Tue, May 3, 2022 at 1:38 PM Jacobson, Marty (ECY) <MAJA461@ecy.wa.gov> wrote:

Hello

Ex. 6 Personal Privacy (PP)

Regarding the solids pile along Pioneer Highway (ERTS 710511), the material belonged to

Ex. 6 Personal Privacy (PP)

Ex. 6 Personal Privacy (PP) a dairy operator that owns several dairies in the vicinity. The materials were exported to a non-dairy operator

Ex. 6 Personal Privacy (PP)

I do not know if there was a charge for the material.

Ex. 6 Personal Privacy (PP)

has equipment to haul and spread solid materials. Based on Ecology's recommendation,

Ex. 6 Personal Privacy (PP)

delayed spreading the material this spring until after the flood season. That being said, Ecology considers this a pollution-generating event. Future instances will result in Ecology moving to the next step in the compliance process.

Marty Jacobson

Nonpoint Water Quality Specialist

WA Department of Ecology

Northwest Regional Office

Cell (425) 301-7062

From: Flege, Kyrre (AGR) <KFlege@agr.wa.gov>

Sent: Monday, May 2, 2022 7:11 AM

To: Ex. 6 Personal Privacy (PP) @gmail.com>; Rau, Ben (ECY) <benr461@ECY.WA.GOV>; Sandison, Derek (AGR) <DSandison@agr.wa.gov>; Watson, Laura (ECY) <law461@ECY.WA.GOV>; Jacobson, Marty (ECY) <MAJA461@ECY.WA.GOV>; McLain, Kelly (AGR) <KAardal@agr.wa.gov>

Subject: Re: Weekly Goals Sandison / Watson, Flege, Rau

Good morning Ex. 6 Personal Privacy (PP)

The ERTS (#710511) you referenced with specific questions was referred to ECY and has been overseen by Marty Jacobson. He'll be responding to you to help answer your questions.

Best,

Kyrre Flege

Program Manager | Dairy Nutrient Management

Washington State Department of Agriculture

c. 360.746.1249 — e. kflege@agr.wa.gov

From: Ex. 6 Personal Privacy (PP) [REDACTED]@gmail.com>

Sent: Sunday, May 1, 2022 11:03:05 AM

To: Rau, Ben (ECY) <benr461@ECY.WA.GOV>; Sandison, Derek (AGR) <DSandison@agr.wa.gov>;
Watson, Laura (ECY) <lawa461@ECY.WA.GOV>; Flege, Kyrre (AGR) <KFlege@agr.wa.gov>

Subject: Weekly Goals Sandison / Watson, Flege, Rau

External Email

Just a friendly reminder of your responses are due or either past due for the following:

Sandison / Watson - Justification for not eliminating manure applications in flood plains when it has been shown that with the voluntary compliance program now in place agricultural is unable to predict flooding in a consistent manner causing non point agricultural pollution in Washington state. The response should also address how other states have found regulations prohibiting manure applications to be not a burden to agriculture, yet Washington state is unable to do so. Also addressing how the USDA's preferred BMP elimination of manure applications in flood plains would not be of value in Washington state.

Flege - Information on application of approximate 500 yds of manure subject to flooding on Stillaguamish flood plain reported in ERTs 10/6/2021, spread approximately 4/1/2022